

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

JAMES L. BOYINGTON,)
AIS #235843,)
)
Plaintiff,)
)
v.)
) CIVIL ACTION NO.2:07-CV-30-MHT
LEEPOSEY DANIELS, et al.,)
)
Defendants.)

DEFENDANTS' RESPONSE TO THE COURT'S
ORDER DATED FEBRUARY 2, 2007

Come now the Defendants, in the above styled-cause, by and through undersigned counsel, and respond to the Court's Order dated February 2, 2007. After a review of the compliant and an investigation of the claims, the Defendant pray this Honorable Court to accept this response in lieu of a special report. The Defendants believe that this position is supported as follows:

1. First and foremost, the majority of the Plaintiff's claims are for injunctive relief. The Plaintiff was released from ADOC custody on February 16, 2007. (See Exhibit "A" attached). The Plaintiff has not notified the Court or the Defendants of his new address. The only address that the Defendants have is an emergency contact address of 713 James Lee Road, Ft. Walton, FL 32547. (See Exhibit "A" attached). Regardless, due to the inmate's release, the issue of injunctive relief is moot.

2. Secondly, as to the issue of access to the courts and

damages possibly associated with a conditions case, the Plaintiff has not set the necessary elements to establish a prima facie case. Inmates have access to legal materials at the Montgomery Pre-Release Center. The Defendants have no way of knowing whether the Plaintiff is going to pursue this action or not.

3. Thirdly, the Defendants are entitled to absolute immunity in their official capacity and qualified immunity in their individual capacity as to any claims that the Plaintiff may have, assuming that his complaint establishes the proper elements.

4. The Defendants reserve the right to submit a special report, should this Court deem it necessary and further reserve the right to request a trial by jury after the decision of this Honorable Court as to the issues presented.

Respectfully submitted,

Kim T. Thomas (THO015)
General Counsel
Assistant Attorney General

/s/Albert S. Butler
Albert S. Butler (BUT016)
Assistant General Counsel
Assistant Attorney General

ADDRESS OF COUNSEL:

Alabama Department of Corrections
Legal Division
301 South Ripley Street
PO Box 301501
Montgomery, Alabama 36130-1501
(334) 353-3885

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing documents upon:

James L. Boyington
713 James Lee Road
Ft. Walton, FL 32547

by placing the same in first class mail, postage pre-paid, this the 7th day of March, 2007.

/s/Albert S. Butler
Albert S. Butler (BUT016)
Assistant General Counsel
Assistant Attorney General

CDGID GENERAL INFO DISPLAY *** PRODUCTION ***
AIS : 00235843 - BOYINGTON, JAMES L R/S : WM DOB: 07/10/1959
~~INST: 000 - UNASSIGNED~~ DORM: 00
OFF : 809C - POSS CONTROL SUBSTANCE NCIC OFF: 3599

1 SID NUMBER: MARITAL :0 LIVING ARG:00 SMT1 : WGT :191
2 FBI NUMBER: CITIZEN :Y DEPENDANTS:0 SMT2 : HGT :5'11
3 SSN NUMBER:261510190 EDU LVL :12 SIBLINGS :00 SMT3 : HAIR:BRO
4 PREV AIS# :* NONE * ADLS ENVR: REARD BY :U PHOTO YR: EYES:HAZ
5 NEXT AIS# :* NONE * RELIGION :01 BRTH PLACE:US FNGR PRT: SKIN:XXX
6 IDENT :0 VETERAN :8 INCOME SRC:0 OCCU 1 :869 COAT:
7 IDENT DT :00/0000 DISCHARGE:0 EMP STATUS:0 OCCU 2 :000 PANT:

8 MILTRY ENTRY :00/00/0000 NBR OF INCARCERATIONS:01 RELEASE TYPE:30
9 MILTRY DISCHRG:00/00/0000 NBR OTHER SENTENCES :00 DUTY STATUS :1
10 LAST ARREST DT:00/00/0000 YOUTH OFFENDER :A STATUS CODE :30
11 P&P CLOSING DT:00/00/0000 1ST ARREST YEAR :0000 GOC :
12 LAST TRANS DT :02/20/2007 FELONY CONV PEOP :00
13 ~~RELEASE DT :02/10/2007~~ FELONY CONV PROP :00

14 EMERGENCY INFO PRIOR ARREST INFO
15 LAURA BOYINGTON (MOTHER)
16 713 JAMES LEE RD 850-862-2454 0000000000
17 FT WALTON FL 32549 00000

DEFENDANTS'
EXHIBIT "A"